State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
9083 Middletown Mall
White Hall, WV 26554

Earl Ray Tomblin
Governor

Michael J. Lewis, M.D., Ph.D.
Cabinet Secretary

August 8, 2011

-----for

Dear -----:

Attached is a copy of the Findings of Fact and Conclusions of Law on your hearing held August 5, 2011. Your hearing request was based on the Department of Health and Human Resources' action to deny Medicaid payment for orthodontic services.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Eligibility for orthodontic services under the Medicaid Program is based on current policy and regulations. Some of these regulation state that medical necessity review criteria may be based on adaptations of dental standards developed by the Periodicity and Anticipatory Guidance Recommendations by the American Academy of Pediatric Dentistry (AAPD), the American Academy of Pediatrics (AAP), the American Dental Association (ADA), and research-based, nationally accredited medical appropriateness criteria, such as InterQual, OR other appropriate criteria approved by BMS. A request for prior authorization is reviewed by the Utilization Management Contractor (UMC). It is the responsibility of the treating/prescribing practitioner to submit the appropriate Prior Authorization Request Form with medical documentation to the UMC. When a request for service is denied based on medical necessity, the denial is communicated with the reason(s) of denial to the provider of service and the member or their legal guardian by the UMC. (Bureau for Medical Services Provider Manual, Chapter 505, §505.8)

The information submitted at your hearing fails to demonstrate that orthodontic services are medically necessary.

It is the decision of the State Hearing Officer to **uphold** the action of the Department in denying your request for prior authorization of Medicaid payment for orthodontic services.

Sincerely,

Thomas E. Arnett
State Hearing Officer
Member, State Board of Review

cc: Erika H. Young, Chairman, Board of Review
Amy Workman, BMS

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES
BOARD OF REVIEW

-----,

CLAIMANT,

v. **Action Number: 11-BOR-1338**

West Virginia Department
of Health and Human Resources,

RESPONDENT.

DECISION OF STATE HEARING OFFICER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing for -----. This hearing was held in accordance with the provisions found in the Common Chapters Manual, Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing convened on August 5, 2011 on a timely appeal filed June 21, 2011.

II. PROGRAM PURPOSE:

The 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services is responsible for development of regulations to implement Federal and State requirements for the program. The Department of Health and Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

-----, Claimant's Guardian/Representative
Joanne Ranson, RN, Bureau for Medical Services (BMS), Department's Representative
W. Christopher Taylor, D.D.S, Orthodontic Consultant for BMS, Department's Witness

Presiding at the hearing was Thomas E. Arnett, State Hearing Officer and a member of the State Board of Review.

All parties participated via telephone conference call.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department was correct in its action to deny the Claimant's request for Medicaid payment of orthodontic services.

V. APPLICABLE POLICY:

WV Medicaid Provider Manual, Chapter 505 (Covered Services, Limitations and Exclusions for Dental, Orthodontic and Oral Health Services), Section 505.8 (Prior Authorization)

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

Department's Exhibits:

D-1 Dental Manual, Chapter 505, Section 505.8 Prior Authorization-Orthodontic Services (Pages 1-2)
D-2 Information received from [redacted] D.D.S. (Pages 3-5)
D-3 Notice of Denial Determination by WVMI dated April 22, 2011 (Pages 6-7)

VII. FINDINGS OF FACT:

1) On March 23, 2011, Dr. [redacted] D.D.S., completed a BMS/UMC Comprehensive Orthodontic Treatment Prior Authorization Request Form (Exhibit-2, pages 3-5) on behalf of the Claimant and submitted it to the West Virginia Medical Institute (WVMI), the Utilization Management Contractor (UMC), to determine eligibility for prior authorization for Medicaid payment of orthodontic services.

2) On or about April 22, 2011, the Claimant and Dr. [redacted] were notified via a Notice of Denial for Dental Services (Exhibit-3, pages 6 & 7) that the prior authorization request for Medicaid payment of orthodontic (dental) services was denied. This notice states, in pertinent part:

> **Reason for Denial:** Documentation provided does not indicate medical necessity – specifically:
>
> Denied after review of consultant, does not meet any criteria of BMS.

3) The Department's Bureau for Medical Services (BMS) representative reviewed applicable policy (Exhibit-1) and called upon Dr. W. Christopher Taylor, D.D.S., an orthodontic consultant employed by WVMI, to explain how the medical findings apply to policy. Dr. Taylor noted that the prior authorization request form (Exhibit-2) submitted for review indicates the individual must meet at least one of the medical necessity criteria listed on the form. Dr. [redacted] indicated that the Claimant meets medical necessity criterion under the section entitled "Impacted teeth (excluding 3rd molars) cuspids and laterals only."

Dr. Taylor testified that documentation included on the form contradicts eligibility under this criterion as Dr. [redacted] notes several times in Exhibit-2 that [tooth] #29 was not impacted, but blocked out by #28 and that #28 had to be removed - (The #29 is in reference to the second bicuspid tooth on the lower right side). On Page 4 of Exhibit-2, Dr. [redacted] noted under the impacted teeth section - "#29 not impacted, blocked out." In addition, Dr. Taylor cited the top of page 5 wherein the following examination notes have been typed – "Class 1 with main immediate problem, #29 ectopic and unerupted, it has root development left, but blocked by #28 in arch. Give it 3 months after removing #28 to see if improves. 3-24-11 Partial eruption #29, will need to bring up to occlusal plane." Because the information submitted clearly demonstrates that the Claimant does not meet the impacted teeth criterion, medical necessity could not be established.

4) The Claimant's representative did not refute the clinical findings cited by the Department but indicated she wanted a written decision.

5) The WV Medicaid Provider Manual, Chapter 505 – Covered Services, Limitations, And Exclusions for Dental, Orthodontic and Oral Health Services, Section 505.8 (Prior Authorization), states that medical necessity review criteria may be based on adaptations of dental standards developed by the Periodicity and Anticipatory Guidance Recommendations by the American Academy of Pediatric Dentistry (AAPD), the American Academy of Pediatrics (AAP), the American Dental Association (ADA), and research-based, nationally accredited medical appropriateness criteria, such as InterQual, OR other appropriate criteria approved by BMS. Prior authorization is reviewed by the Utilization Management Contractor (UMC). It is the responsibility of the treating/prescribing practitioner to submit the appropriate Prior Authorization Request Form with medical documentation to the UMC. When a request for service is denied based on medical necessity, the denial is communicated with the reason(s) of denial to the provider of service and the member or their legal guardian by the UMC.

VIII. CONCLUSIONS OF LAW:

1) Medicaid policy provides that prior authorization is reviewed by the Utilization Management Contractor (UMC) and it is the responsibility of the treating/prescribing practitioner to submit the appropriate Prior Authorization Request Form with medical documentation to the UMC. When a request for service is denied based on medical necessity, the denial is communicated with the reason(s) of denial to the provider of service and the member or their legal guardian by the UMC.

2) A review of the clinical evidence, as well as testimony received at the hearing, clearly indicates that the Claimant's condition at the time of the evaluation fails to demonstrate medical necessity.

3) Based on the evidence, the Department was correct in denying prior authorization for Medicaid payment of orthodontic treatment.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the action of the Agency in denying the Claimant's prior authorization request for Medicaid payment of orthodontic services.

X. RIGHT OF APPEAL:

See Attachment

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision

Form IG-BR-29

ENTERED this _____ Day of August, 2011.

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Thomas E. Arnett
State Hearing Officer